

The Honorable James L. Robart

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
SEATTLE DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

ANDY CHING FONG CHEN and AERO
SPACE PORT INTERNATIONAL GROUP,
INC.

Defendants, and

NORTH AMERICAN FOREIGN TRADE
ZONE INDUSTRIES, LLC; WASHINGTON
ECONOMIC DEVELOPMENT CAPITAL,
LLC; WASHINGTON ECONOMIC
DEVELOPMENT CAPITAL II, LLC; EVF,
INC; MOSES LAKE 96000 BUILDING LLC;
SUN BASIN ORCHARDS, LLC; JOHN CHEN,
TOM CHEN, BOBBY CHEN and HEIDI
CHEN,

Relief Defendants.

Case No. 17-cv-00405-JLR

RECEIVER'S QUARTERLY STATUS
REPORT

**TO ALL INTERESTED PARTIES AND THEIR COUNSEL OF RECORD, AND
THIS HONORABLE COURT:**

PLEASE TAKE NOTICE THAT, in accordance with this Court's November 23, 2021
Order Appointing A Receiver (Dkt. No. 130) (the "Appointment Order"), Geoffrey B. Winkler
(the "Receiver"), the Court-appointed permanent receiver for Washington Economic

RECEIVER'S QUARTERLY STATUS REPORT - 1

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1 Development Capital III, LLC (“EDC III”), hereby submits this Quarterly Status Report (the
 2 “Report”) for the period from January 1, 2022 through March 31, 2022 (the “Reporting Period”).
 3 The Receiver notes that the First Interim Report was filed covering a reporting period from
 4 November 23, 2021 through January 22, 2022 and, going forward, is adjusting the current
 5 Reporting Period and all subsequent reporting periods to synchronize the Receiver’s quarterly
 6 reports with the calendar quarters.

7 **I. PRELIMINARY STATEMENT**

8 As reflected in the Court’s record, the Receiver has been vested with all the powers and
 9 authority previously possessed by the officers, directors, managers and general and limited
 10 partners of EDC III as well all powers and authority of a receiver at equity. The Receiver was
 11 given the authority to determine the economic viability of EDC III, to ensure the lawful
 12 operation of EDC III, to identify, preserve, independently control, and otherwise manage any
 13 assets of EDC III, and provide certain ongoing reports to the court.

14 The Receiver was to be granted access by all relevant parties to information, books,
 15 records and accounts, and real and personal property of EDC III in order to assist him in filing:
 16 (1) an accounting of the receivership estate, reflecting all known receivership property, (2) a
 17 report on the sale of ASPI Commerce Park Building 3, (3) a comprehensive list of EDC III
 18 investors, and (4) a confirmation that the Receiver has established bank accounts to receive any
 19 additional funds.

20 **II. ACCOUNTING OF THE RECEIVERSHIP ESTATE**

21 Immediately upon entry of the Appointment Order, the Receiver engaged Seattle Credit
 22 Union for the immediate freeze and subsequent turnover of all funds in the EDC III business
 23 accounts a/e 6830 and 6897. Although the freeze was immediately honored and effective, the
 24 residual funds in these accounts, \$2,282,292.10, were not released and wired to the Receiver
 25 until January 7, 2022. These funds together with an asset worth \$218,395.00 from Defendants on
 26 January 21, 2022, to reimburse EDC III for closing costs in the building sale, and a \$500,000.00

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1 reimbursement to EDC III from an investor that was previously double-paid, which the Receiver
2 received February 12, 2022, represent the total \$3,000,687.10 in assets collected by the
3 Receivership estate currently. During the Reporting Period, per Dkt. No. 142, the Receiver made
4 aggregate payments to professionals totaling \$9,517.91 and accrued a further \$2,379.47 in long
5 term liabilities in the form of professional fees held back for case completion. There are no other
6 known liabilities of EDC III aside from those due to EDC III's remaining investors and ongoing
7 administrative expenses. Please see Standardized Fund Accounting Report attached as Exhibit A.

8 EDC III was to provide the Receiver with all state and federal tax returns from EDC III
9 from 2010-2020 along with relevant and necessary underlying documentation with thirty days of
10 the entry of the Appointment Order. Defendants provided comprehensive tax returns from 2012-
11 2020 on January 31, 2022, sixty-nine days after the entry of the Appointment Order. The
12 Receiver's analysis of these returns found that only 10 investors contributed capital totaling \$5.0
13 million into EDC III and received Schedule K-1s during this timeframe.

14 The Receiver had been hopeful that analyzing the EDC III tax returns would clarify and
15 reconcile the disparate investor lists identified by the Plaintiff and Defendants. But discovering
16 that only \$5.0 million of the up to \$15.5 million in investor capital contributions in question were
17 ever invested into EDC III for tax purposes only further complicated the reconciliation process.
18 Still wanting to avoid the excessive costs associated with undertaking a full forensic accounting,
19 but ever conscious of his responsibilities to neutrally validate and reconcile the accounting put
20 forth by the parties in the case, the Receiver has actively engaged with Angela Chen to produce
21 the precise primary source documentation necessary to fulfill his duties.

22 During the Reporting Period the Receiver obtained at least sixty additional documents
23 and statements from Ms. Chen to support his accounting responsibilities. He would like to note
24 that her cooperation has been essential in both expediting this process and limiting the possible
25 expenses incurred in this regard.

26 As noted in his First Interim Report, the Receiver identified a "31st investor" that

1 appeared in Defendant's investor lists but not Plaintiff's. This party received \$540,000 from the
 2 EDC III bank accounts on January 9, 2015 but based on the materials he has reviewed to date,
 3 the Receiver has not seen adequate proof demonstrating that EDC III ever received inflows from
 4 Washington Economic Development Capital, LLC on this party's behalf (which is the entity
 5 where the party's investment funds were initially wired to), has seen circumstantial evidence
 6 suggesting EDC III did not in fact receive these flows, and additionally the party is not listed on
 7 any EDC III tax returns. Being that is it unlikely the Receiver will be able to ascertain any
 8 additional documentation on these questions, at this time it is his recommendation that the
 9 Receiver does not pursue potential claw back of the net funds received from EDC III in January
 10 2015, but that this "investor" not be allowed to participate in any future claims process.

11 **III. REPORT ON SALE OF ASPI COMMERCE PARK BUILDING 3**

12 The sale of EDC III's primary asset, ASPI Commerce Park Building 3, closed with a
 13 settlement date of October 29, 2021 and net proceeds of \$5,769,016.80 received from Stewart
 14 Title Company at EDC III's Seattle Credit Union account on November 1, 2021. The closing
 15 statement for this sale was previously entered as Docket No. 123, Exhibit 4. Most notably, the
 16 closing statement details a debit to seller in the amount of \$179,555 for government recording
 17 and transfer charges, which defendants have reimbursed to the receivership estate along with
 18 other closing costs to bring the net funds received by the estate to a total of \$6,000,000.

19 **IV. INVESTOR LIST AND REPAYMENT STATUS**

20 Attached here as Exhibit B is a chart that lays out the findings of the Receiver to date.
 21 Receiver has confirmed thirty (30) parties invested in EDC III with total combined inflows
 22 totaling \$16,842,311 and total combined outflows totaling \$12,580,865 for a net \$4,261,446 of
 23 net cash inflows.

24 Based on the facts in this case, specifically the fact that six of the thirty investors have yet
 25 to recover their \$500,000 capital investments, the Receiver intends to seek permission to conduct
 26 a two-tranche claims process to repay investors.

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1 The first tranche of the proposed anticipated claims process would request repaying
2 100% of the \$3,000,000 due to the six investors that are identified on Exhibit B as not having
3 had their capital investments returned, this would bring these six parties into parity with the
4 twenty-four investors who have already had these funds returned.

5 After satisfying the first tranche claims, the Receiver will recommend approving a second
6 tranche of claims for the thirty investors for \$3,956,128 so that each investor may have a pro rata
7 share in any potential future unencumbered assets of the receivership estate in the percentage
8 recommended in the "% Tranche Two Funds" column of Exhibit B. The Receiver has estimated
9 the individual recommended claim amounts by first establishing the amount of net cash
10 investments remaining in EDC III after the satisfaction of the first tranche claims. This principal
11 amount, \$1,261,446.00, represents those "other fees" EDC III assessed from their investors that
12 were not returned to the investors. Since overall investor inflows ranged from \$530,000 to
13 \$623,110 and since all investors had their funds held by EDC III for different lengths of time, the
14 Receiver has calculated interest on these funds at the IRS Long Term Rate of 2.25% in order to
15 reasonably estimate the "time value of money" associated with the investor funds that were held
16 by EDC III, thereby reasonably estimating the relative losses by investor due to the individual
17 disparities in investment length and amount.

18 In the Appointment Order, the Receiver was instructed to identify if investor funds were
19 transferred to an account controlled by EDC III. At this point, Receiver has not reviewed
20 contemporaneous substantiating documentation to confirm that all investor funds were in fact
21 deposited into an account owned by EDC III. The original EDC III bank account with East West
22 Bank was closed and the funds were eventually transferred to Seattle Credit Union (a/e 6897),
23 which eventually received the ASPI Commerce Park Building 3 proceeds and went on to pay out
24 nine investors during 2021 before the commencement of the Receivership. Of these investors
25 that had capital contributions returned, three of them were never listed as owners in the EDC III
26 tax returns (Weiming Chen, Yunya Lin, and Ming Ching Ho). Additionally, two of the investors

1 that remain to have their capital contributions repaid, Yuantao Tang and Feng Chu Hsu, were
 2 never listed on the EDC III tax returns. The Receiver intends to continue his investigation into
 3 this question and will provide additional updates in subsequent reports.

4 **V. CONFIRMATION OF ACCOUNT ESTABLISHMENT**

5 The Receiver confirms that he has established a receivership checking account with East
 6 West Bank (a/e 0036) for the purpose of receiving and collecting funds for the receivership
 7 estate in anticipation of further order of this Court.

8 **VI. CONCLUSION AND PETITION FOR FURTHER INSTRUCTIONS**

9 Assuming the Court authorizes the Receiver to undertake the actions recommended
 10 herein, as well as to continue those actions provided for in the Appointment Order, the Receiver
 11 proposes to submit a further quarterly status report to this Court, addressing his progress,
 12 findings, conclusions, and additional recommendation, in approximately 90 days (within 30 days
 13 from the end of each calendar quarter).

14 Accordingly, and based on the foregoing, the Receiver respectfully requests the Court
 15 enter an order: 1) accepting this report; 2) authorizing the Receiver to continue to administer the
 16 receivership estate in accordance with the terms of the Appointment Order; 3) authorizing the
 17 Receiver to undertake the recommendations presented herein, including a continued document
 18 recovery and review effort, and the engagement of those professionals he deems necessary for
 19 the proper administration of the receivership estate; and 4) providing such other and further relief
 20 as the Court deems necessary and appropriate.

21 DATED this 29th day of April, 2022.

22 AMERICAN FIDUCIARY SERVICES LLC
 23 GEOFFREY B WINKLER

24 By /s/ Geoffrey B. Winkler
 25 GEOFFREY B WINKLER, RECEIVER
 26 Washington Economic Development
 Capital III, LLC

RECEIVER'S QUARTERLY STATUS REPORT - 6

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STANDARDIZED FUND ACCOUNTING REPORT for SEC v. Andy Ching Fong Chen et al. (EDC III)

Receivership; Civil Docket No. C17-0405JLR

Reporting Period from 1/1/2022 to 3/31/2022

FUND ACCOUNTING (See instructions)				
		Detail	Subtotal	Grand Total
Line 1	Beginning Balance (As of 01/01/2022):	2,282,292.10		
	Increases in Fund Balance:			
Line 2	Business Income	-		
Line 3	Cash and Securities (in transit)	-		
Line 4	Interest/Dividend Income	-		
Line 5	Business Asset Liquidation	-		
Line 6	Personal Asset Liquidation	-		
Line 7	Third-Party Litigation Income	-		
Line 8	Miscellaneous - Other	718,395.00		
	Total Funds Available (Lines 1 - 8):		718,395.00	3,000,687.10
	Decreases in Fund Balance:			
Line 9	Disbursements to Investors			
Line 10	Disbursements for Receivership Operations			
Line 10a	Disbursements to Receiver or Other Professionals	(9,517.91)		
Line 10b	Business Asset Expenses	-		
Line 10c	Personal Asset Expenses	-		
Line 10d	Investment Expenses	-		
Line 10e	Third-Party Litigation Expenses	-		
	1. Attorney Fees	-		
	2. Litigation Expenses	-		
	Total Disbursements for Receivership Operations		(9,517.91)	
Line 10f	Tax Administrator Fees and Bonds		-	
Line 10g	Federal and State Tax Payments		-	
	Total Disbursements for Receivership Operations			(9,517.91)
Line 11	Disbursements for Distribution Expenses Paid by the Fund:			
Line 11a	Distribution Plan Development Expenses:			
	1. Fees:			
	Fund Administrator.....	-		
	Independent Distribution Consultant (IDC).....	-		
	Distribution Agent.....	-		
	Consultants.....	-		
	Legal Advisers.....	-		
	Tax Advisers.....	-		
	2. Administrative Expenses	-		
	3. Miscellaneous	-		
	Total Plan Development Expenses		-	
Line 11b	Distribution Plan Implementation Expenses:			
	1. Fees:			
	Fund Administrator.....	-		
	IDC.....	-		
	Distribution Agent.....	-		
	Consultants.....	-		
	Legal Advisers.....	-		
	Tax Advisers.....	-		
	2. Administrative Expenses	-		
	3. Investor Identification:			
	Notice/Publishing Approved Plan.....	-		
	Claimant Identification.....	-		
	Claims Processing.....	-		
	Web Site Maintenance/Call Center.....	-		
	4. Fund Administrator Bond	-		
	5. Miscellaneous	-		
	6. Federal Account for Investor Restitution	-		
	(FAIR) Reporting Expenses	-		
	Total Plan Implementation Expenses		-	
	Total Disbursements for Distribution Expenses Paid by the Fund			-
Line 12	Disbursements to Court/Other:			
Line 12a	Investment Expenses/Court Registry Investment System (CRIS) Fees	-		
Line 12b	Federal Tax Payments	-		
	Total Disbursements to Court/Other:		-	
	Total Funds Disbursed (Lines 9 - 11):			(9,517.91)
Line 13	Ending Balance (As of 03/31/2022):			2,991,169.19
Line 14	Ending Balance of Fund - Net Assets:			
Line 14a	Cash & Cash Equivalents		2,991,169.19	
Line 14b	Investments		-	
Line 14c	Other Assets or Uncleared Funds		-	
	Total Ending Balance of Fund - Net Assets			2,991,169.19

STANDARDIZED FUND ACCOUNTING REPORT for SEC v. Andy Ching Fong Chen et al. (EDC III)

Receivership; Civil Docket No. C17-0405JLR

Reporting Period from 1/1/2022 to 3/31/2022

OTHER SUPPLEMENTAL INFORMATION:				
		Detail	Subtotal	Grand Total
Line 15	Disbursements for Plan Administration Expenses Not Paid by the Fund:			
<i>Line 15a</i>	<i>Plan Development Expenses Not Paid by the Fund</i>			
	1. Fees:			
	Fund Administrator	-		
	IDC	-		
	Distribution Agent	-		
	Consultants	-		
	Legal Advisers	-		
	Tax Advisers	-		
	2. Administrative Expenses	-		
	3. Miscellaneous	-		
	Total Plan Development Expenses Not Paid by the Fund		-	
<i>Line 15b</i>	<i>Plan Implementation Expenses Not Paid by the Fund:</i>			
	1. Fees:			
	Fund Administrator	-		
	IDC	-		
	Distribution Agent	-		
	Consultants	-		
	Legal Advisers	-		
	Tax Advisers	-		
	2. Administrative Expenses	-		
	3. Investor Identification:			
	Notice/Publishing Approved Plan	-		
	Claimant Identification	-		
	Claims Processing	-		
	Web Site Maintenance/Call Center	-		
	4. Fund Administrator Bond	-		
	5. Miscellaneous	-		
	6. FAIR Reporting Expenses	-		
	Total Plan Implementation Expenses Not Paid by the Fund		-	
<i>Line 15c</i>	<i>Tax Administrator Fees & Bonds Not Paid by the Fund</i>			
	Total Disbursements for Plan Administration Expenses Not Paid by the Fund			-
Line 16	Disbursements to Court/Other Not Paid by the Fund			
<i>Line 16a</i>	Investment Expenses/CRIS Fees			-
<i>Line 16b</i>	Federal Tax Payments			-
	Total Disbursements to Court/Other Not Paid by the Fund:			-
Line 17	DC & State Tax Payments			-
Line 18	No. of Claims:			
<i>Line 18a</i>	# of Claims Received This Reporting Period	-		
<i>Line 18b</i>	# of Claims Received Since Inception of Fund	-		
Line 19	No. of Claimants/Investors:			
<i>Line 19a</i>	# of Claimants/Investors Paid This Reporting Period	-		
<i>Line 19b</i>	# of Claimants/Investors Paid Since Inception of Fund	-		

Receiver: Geoff Winkler

By: Geoff Winkler
(printed name)Chief Executive Officer
American Fiduciary Services LLC
Receiver, EDC III

Date: April 29, 2022

SEC v. Chen et al 2:17-cv-00405-JLR (W.D. Wash.)
 RECEIVER'S SECOND INTERIM REPORT EXHIBIT B
 INVESTOR LIST AND REPAYMENT STATUS

Investor No.	Investor Name	Date of Investment	EDC III Investor Per Tax Returns?	Total Investor Inflows	Capital Investment Returned	Total Investor Outflows	Net Cash Flows to EDC III	Estimated Non-Paid Interest at 2.25%	Estimated Tranche One Claim	Estimated Tranche Two Claim	% Tranche Two Funds
1	Chung, In Kyung	5/25/2011	Yes	530,000	No	-	530,000	125,731	500,000	155,731	3.9%
2	Lin, Ai Yen	7/19/2011	Yes	562,747	Yes	(500,000)	62,747	136,501	-	199,248	5.0%
3	Fan, Ying	8/9/2011	No	561,650	Yes	(500,000)	61,650	90,033	-	151,683	3.8%
4	Zhang, Shibing	12/1/2011	Yes	562,385	Yes	(500,810)	61,575	131,068	-	192,643	4.9%
5	Wang, Bin	1/9/2012	Yes	561,225	Yes	(502,430)	58,795	129,565	-	188,360	4.8%
6	Liu, ShuangYuan	1/10/2012	No	561,650	Yes	(549,675)	11,975	69,423	-	81,398	2.1%
7	Gang, Cheolmin	3/27/2012	No	531,550	Yes	(530,000)	1,550	48,036	-	49,586	1.3%
8	Kim, Chunsick	3/27/2012	Yes	530,000	No	-	530,000	114,891	500,000	144,891	3.7%
9	Wang, Xiaoying	4/10/2012	No	561,545	Yes	(550,000)	11,545	63,246	-	74,791	1.9%
10	Yang, Xiaoxiao	4/23/2012	No	561,550	Yes	(550,000)	11,550	61,023	-	72,573	1.8%
11	Huang, Fu Cheng	5/16/2012	Yes	560,016	No	-	560,016	120,662	500,000	180,678	4.6%
12	Chen, Jui Tsun	5/24/2012	Yes	562,827	Yes	(501,215)	61,612	124,472	-	186,084	4.7%
13	Yoon, Hee Jung	7/13/2012	No	530,000	Yes	(502,175)	27,825	87,249	-	115,074	2.9%
14	Feng, Yan	8/14/2012	No	561,500	Yes	(500,000)	61,500	67,447	-	128,947	3.3%
15	Qu, Ying	8/23/2012	No	561,550	Yes	(550,000)	11,550	57,003	-	68,553	1.7%
16	Wu, Po Ching	9/21/2012	No	562,300	Yes	(540,000)	22,300	72,033	-	94,333	2.4%
17	Chen, Weiming	9/24/2012	No	560,000	Yes	(500,000)	60,000	106,683	-	166,683	4.2%
18	Li, Shuli	10/11/2012	No	559,970	Yes	(500,000)	59,970	74,951	-	134,921	3.4%
19	Tang, Yuantao	10/12/2012	No	561,500	No	-	561,500	112,153	500,000	173,653	4.4%
20	Sun, Dan	11/1/2012	Yes	561,500	Yes	(500,000)	61,500	115,317	-	176,817	4.5%
21	Long, Shijing	11/7/2012	Yes	561,522	Yes	(500,000)	61,522	114,087	-	175,609	4.4%
22	Pan, Zhen	12/27/2012	Yes	561,500	No	-	561,500	112,200	500,000	173,700	4.4%
23	Li, Haixing	7/16/2013	No	561,500	Yes	(526,000)	35,500	50,276	-	85,776	2.2%
24	Zou, Bin	7/23/2013	No	561,500	Yes	(527,060)	34,440	58,759	-	93,199	2.4%
25	Mu, Hui	11/1/2013	No	561,555	Yes	(530,000)	31,555	57,107	-	88,662	2.2%
26	Li, Chunshu	11/15/2013	No	561,576	Yes	(530,000)	31,576	56,128	-	87,704	2.2%
27	Hsu, Feng Chu	11/20/2013	No	561,533	No	-	561,533	99,252	500,000	160,785	4.1%
28	Lin, Yunya	12/5/2013	No	621,500	Yes	(590,000)	31,500	94,047	-	125,547	3.2%
29	Ho, Ming Ching	2/18/2014	No	623,110	Yes	(561,500)	61,610	97,978	-	159,588	4.0%
30	Jiang, Di	3/20/2014	No	561,550	Yes	(540,000)	21,550	47,361	-	68,911	1.7%
Total				16,842,311		(12,580,865)	4,261,446	2,694,682	3,000,000	3,956,128	100%

CERTIFICATE OF SERVICE

I hereby certify on April 29, 2022, I electronically filed the foregoing RECEIVER'S QUARTERLY STATUS REPORT with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the persons listed below:

- **David S Mendel**
mendeld@sec.gov
- **Gregory N. Miller**
millern@sec.gov
- **Tara J Schleicher**
tara.schleicher@foster.com, kesarah.rhine@foster.com
- **Frank Raymond Siderius**
franks@sidlon.com

DATED this 29th day of April, 2022

/s/ Tara J. Schleicher
Tara J. Schleicher, WSBA #26884

CERTIFICATE OF SERVICE

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